

# **Title 30-A: MUNICIPALITIES AND COUNTIES**

## **Chapter 183: ECONOMIC REGULATION**

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**Maine Revised Statutes**  
**Title 30-A: MUNICIPALITIES AND COUNTIES**  
**Chapter 183: ECONOMIC REGULATION**

**Subchapter 1: JUNKYARDS AND AUTOMOBILE GRAVEYARDS**

**§3751. PURPOSE**

Junkyards and so-called "auto graveyards" have been steadily expanding and frequently encroach upon highways. These junkyards and graveyards have become a nuisance and a menace to safe travel on public ways, often distracting the attention of drivers of motor vehicles because it appears cars are parked on the highway or that an accident has occurred. It is declared that such junkyards and automobile graveyards are a nuisance and are properly subject to regulation and control. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

It is recognized that recycling of automobiles is a business enterprise that, when conducted in accordance with certain standards, differs from the enterprise of an automobile graveyard and that adoption of uniform state standards for this type of business enterprise would assist in development and regulation of that business. [1993, c. 173, §1 (NEW).]

Junkyards, automobile graveyards and automobile recycling businesses pose potential risks to the environment, particularly to groundwater and surface water quality if gasoline, oil or other fluids are not managed and disposed of properly. Proper location and operation of these facilities are critical to ensure protection of groundwater and surface water quality, other natural resources and the health and welfare of Maine citizens. These facilities may create nuisance conditions potentially affecting abutting landowners and others if not located and operated properly. For these reasons, it is declared that these facilities are appropriately subject to certain environmental and operational standards and to appropriate municipal and state regulation. [2003, c. 312, §2 (NEW).]

**SECTION HISTORY**

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 173, §1 (AMD). 2003, c. 312, §2 (AMD).

**§3752. DEFINITIONS**

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Automobile graveyard.** "Automobile graveyard" means a yard, field or other outdoor area used to store 3 or more unregistered or uninspected motor vehicles, as defined in Title 29-A, section 101, subsection 42, or parts of the vehicles. "Automobile graveyard" includes an area used for automobile dismantling, salvage and recycling operations.

A. "Automobile graveyard" does not include:

(1) An area used for temporary storage of vehicles or vehicle parts by an establishment or place of business that is primarily engaged in doing vehicle repair work to make repairs to render a motor vehicle serviceable. In order for a vehicle's storage to be considered temporary, it must be removed from the site within 180 calendar days of its receipt;

(2) An area used by an automobile hobbyist to store, organize, restore or display antique autos, antique motorcycles, classic vehicles, horseless carriages, reconstructed vehicles, street rods or parts of these vehicles as these vehicles are defined in Title 29-A, section 101 as long as the hobbyist's activities comply with all applicable federal and state statutes and rules and municipal ordinances, other than ordinances that are more restrictive than this subsection regarding the storage of vehicles or vehicle parts that are collected by a hobbyist, except that a municipal ordinance may require areas used by an automobile hobbyist to comply with the screening requirements in section 3754-A, subsection 1, paragraph A and the standards in section 3754-A, subsection 5, paragraph A, paragraph B, subparagraph (1) and paragraph C. For the purposes of this subparagraph, an automobile hobbyist is a person who is not primarily engaged in the business of selling any of those vehicles or parts from those vehicles;

(3) An area used for the parking or storage of vehicles, vehicle parts or equipment intended for use by a municipality, quasi-municipal entity or state or federal agency;

(4) An area used for the storage of operational farm tractors and related farm equipment, log skidders, logging tractors or other vehicles exempted from registration under Title 29-A, chapter 5;

(5) An area used for the parking or storage of vehicles or equipment being offered for sale by a dealer, equipment dealer, trailer dealer or vehicle auction business as defined in Title 29-A, section 851;

(6) An area used for the storage of vehicles by an establishment or place of business that is primarily engaged in business as a new vehicle dealer as defined in Title 29-A, section 851;

(7) An area used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business; or

(8) An area used for the parking or storage of operational commercial motor vehicles, special equipment or special mobile equipment as defined in Title 29-A, section 101 that is temporarily out of service but is expected to be used by the vehicle or equipment owner or by an operator designated by the owner. This subsection does not exempt an area used for the parking or storage of equipment or vehicles that are not operational while stored or parked in the area. [ 2005, c. 424, §1 (AMD) . ]

[ 2005, c. 424, §1 (AMD) . ]

**1-A. Automobile recycling business.** "Automobile recycling business" means the business premises of a dealer or a recycler licensed under Title 29-A, sections 851 to 1112 who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, as long as 80% of the business premises specified in the site plan in section 3755-A, subsection 1, paragraph C is used for automobile recycling operations.

A. "Automobile recycling business" does not include:

(1) Financial institutions as defined in Title 9-B, section 131, subsections 17 and 17-A;

(2) Insurance companies licensed to do business in the State;

(3) New vehicle dealers, as defined in Title 29-A, section 851, licensed to do business in the State;  
or

(4) That portion of the business premises that is used for temporary storage of vehicles by an establishment or place of business that is primarily engaged in business as an insurance salvage pool. In order for a vehicle's storage to be considered temporary under this subparagraph, the vehicle must be removed from the site within 180 days of receipt of title by the business. [ 2003, c. 312, §4 (NEW). ]

[ 2003, c. 312, §4 (AMD) . ]

**2. Highway.** "Highway" means any public way.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) . ]

**3. Interstate System.** "Interstate System" means those portions of the Maine Turnpike and the state highway system incorporated in the National System of Interstate and Defense Highways, as officially designated by the Department of Transportation.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) . ]

**4. Junkyard.** "Junkyard" means a yard, field or other outside area used to store, dismantle or otherwise handle:

A. Discarded, worn-out or junked plumbing, heating supplies, electronic or industrial equipment, household appliances or furniture; [ 2003, c. 312, §5 (AMD) . ]

B. Discarded, scrap and junked lumber; and [ 2003, c. 312, §5 (AMD) . ]

C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material. [ 2003, c. 312, §5 (AMD) . ]

D. [ 2003, c. 312, §5 (RP) . ]

[ 2003, c. 312, §5 (AMD) . ]

**5. Primary System.** "Primary System" means that portion of the state highway system which the Department of Transportation has by official designation incorporated into the Federal-Aid Primary System.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) . ]

**6. Recycling or recycling operations.**

[ 2003, c. 312, §6 (RP) . ]

**SECTION HISTORY**

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1991, c. 745, §1 (AMD). 1993, c. 173, §§2,3 (AMD). 1995, c. 65, §A130 (AMD). 1995, c. 65, §§A153,C15 (AFF). 2003, c. 312, §§3-6 (AMD). 2005, c. 424, §1 (AMD).

### §3753. PERMIT REQUIRED

A person may not establish, operate or maintain an automobile graveyard, automobile recycling business or junkyard without first obtaining a nontransferable permit from the municipal officers of the municipality in which the automobile graveyard, automobile recycling business or junkyard is to be located, or from the county commissioners of the county of any unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. Permits issued to an automobile graveyard or junkyard under this section are valid until the first day of the following year; except that, beginning in calendar year 2004, permits issued to an automobile graveyard or junkyard under this section are valid until the first day of October of the following year. Permits issued to an automobile recycling business under this section are valid for 5 years from the date of issuance and are renewable provided that the permit holder furnishes a sworn statement, annually, on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit. A person operating a business that involves the recycling of automobiles may operate under a permit for an automobile graveyard or a permit for an automobile recycling business. [2003, c. 312, §7 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 173, §4 (AMD). 2003, c. 312, §7 (AMD).

### §3754. HEARINGS

Municipal officers or county commissioners, as provided for in section 3753, shall hold a public hearing before granting a permit to establish a new automobile graveyard, automobile recycling business or junkyard and may hold public hearings annually regarding the relicensing of these facilities. Municipal officers or county commissioners shall require an applicant to provide proof of mailing the notice of the application to all abutting property owners. Municipal officers or county commissioners shall also post a notice of the hearing at least 7 and not more than 14 days before the hearing in at least 2 public places in the municipality or unorganized territory and publish a notice in one newspaper having general circulation in the municipality or unorganized territory in which the automobile graveyard, automobile recycling business or junkyard is to be located. The municipal officers or county commissioners shall give written or electronic notice of the application to establish a new automobile graveyard or automobile recycling business to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles by mailing a copy of the application at least 7 and not more than 30 days before the hearing. The municipal officers or county commissioners shall give written notice of the application to the public water supplier if the application is for an automobile graveyard, automobile recycling business or junkyard located within the supplier's source water supply area. The notice may be given by mailing a copy of the application at least 7 and not more than 14 days before the hearing. [2005, c. 424, §2 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 173, §4 (AMD). 1999, c. 761, §5 (AMD). 2003, c. 312, §8 (AMD). 2005, c. 424, §2 (AMD).

### §3754-A. LIMITATIONS ON GRAVEYARD, AUTOMOBILE RECYCLING BUSINESS AND JUNKYARD PERMITS

**1. Highways; Interstate System and Primary System.** A permit may not be granted for an automobile graveyard or junkyard within 1,000 feet of the right-of-way of any highway incorporated in both the Interstate System and Primary System or within 600 feet of the right-of-way of any other highway, except for:

A. Those automobile graveyards or junkyards that are kept entirely screened from ordinary view from the highway at all times by natural objects, plantings or fences. Screening required by this paragraph must be:



- (1) At a height, density and depth sufficient to accomplish complete screening from ordinary view;
- (2) Well constructed and properly maintained at a minimum height of 6 feet;
- (3) Placed outside of the highway right-of-way; and
- (4) Acceptable to the municipal officers or county commissioners; and [ 2003, c. 312, §9 (NEW) . ]

B. Those automobile graveyards or junkyards located within areas that have been zoned for industrial use and located more than 600 feet but less than 1,000 feet from the right-of-way of any highway incorporated in both the Interstate System and Primary System. [ 2003, c. 312, §9 (NEW) . ]

[ 2003, c. 312, §9 (NEW) . ]

**2. Limitation on new permits.** A permit may not be granted for an automobile graveyard or junkyard established after October 3, 1973 and located within 100 feet of any highway.

[ 2003, c. 312, §9 (NEW) . ]

**3. Public facilities.** A new permit may not be granted for an automobile graveyard or junkyard that is:

A. Located within 300 feet of a public building, public park, public playground, public bathing beach, school, church or cemetery; and [ 2003, c. 312, §9 (NEW) . ]

B. Within ordinary view from a facility under paragraph A. [ 2003, c. 312, §9 (NEW) . ]

[ 2003, c. 312, §9 (NEW) . ]

**4. Public and private water supplies.** A permit may not be granted for an automobile graveyard, junkyard or automobile recycling business that handles junk, scrap metal, vehicles or other solid waste within 300 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the automobile graveyard, junkyard, automobile recycling business or the owner's or operator's abutting residence. This prohibition does not apply to wells installed after an automobile graveyard, junkyard or automobile recycling business has already received a permit under section 3753.

Automobile graveyards, junkyards and automobile recycling businesses operating under the terms of permits issued prior to the effective date of this subsection and handling junk, scrap metal, vehicles or other solid waste within 300 feet of wells that serve as public or private water supplies may continue to operate in those locations under the terms of those permits. Municipal officers or county commissioners may renew a permit allowing the continued handling of junk, scrap metal, vehicles or other solid waste within 300 feet of a well serving as a public or private water supply as long as no further encroachment toward the well occurs. The municipal officers or county commissioners may not renew a permit if there is substantial, credible evidence that the permitted activities have caused contamination of the well.

[ 2005, c. 424, §3 (AMD) . ]

**5. Operating standards.** All automobile graveyards and junkyards permitted pursuant to section 3753 are required to comply with the following standards:

A. All fluids, including, but not limited to, engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be properly handled in such a manner that they do not leak, flow or discharge into or onto the ground or into a body of water; [ 2005, c. 247, §1 (AMD); 2005, c. 247, §7 (AFF) . ]

B. A vehicle containing fluids may not be stored or dismantled:

- (1) Within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5;
- (2) Within the 100-year floodplain; or

(3) Over a mapped sand and gravel aquifer; [ 2003, c. 312, §9 (NEW) . ]

C. Junk, scrap metal, vehicles or other solid wastes may not be placed or deposited, directly or indirectly, into the inland waters or tidal waters of the State or on the ice of inland waters or tidal waters or on the banks of inland waters or tidal waters in such a manner that they may fall or be washed into these waters; [ 2005, c. 247, §2 (AMD); 2005, c. 247, §7 (AFF) . ]

D. Junkyard and automobile graveyard owners must demonstrate at the time of licensing that the facility or facilities for which they seek permits are, or are part of, a viable business entity and the facility or facilities are actively engaged in the business of salvaging, recycling, dismantling, processing, repairing or rebuilding junk or vehicles for the purpose of sale or trade; [ 2005, c. 683, Pt. A, §51 (RPR) . ]

E. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed; [ 2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF) . ]

F. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power, appliances and other items within 180 days of acquisition. Motor vehicles, appliances and other items acquired by and on the premises of a junkyard or automobile graveyard prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable; [ 2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF) . ]

G. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations; and [ 2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF) . ]

H. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles, appliances and other items before crushing or shredding. Fluids required to be removed under this paragraph must be removed to the greatest extent practicable. [ 2005, c. 247, §3 (NEW); 2005, c. 247, §7 (AFF) . ]

[ 2005, c. 683, Pt. A, §51 (AMD) . ]

**6. Rules.** A permit, other than a limited-term permit as described in this section, may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer or recycler licensing provisions of Title 29-A, chapter 9. Municipal officers or county commissioners may award a limited-term permit conditioned upon an automobile graveyard's or automobile recycling business's demonstrating compliance with the provisions of Title 29-A, chapter 9 within 90 calendar days of the issuance of the municipal or county limited-term permit.

[ 2003, c. 312, §9 (NEW) . ]

**6-A. Relationship to state storm water requirements.** After October 30, 2005, municipal officers or county commissioners may reject an application for an automobile graveyard or automobile recycling business if the applicant has not demonstrated that:

A. A notice of intent has been filed with the Department of Environmental Protection to comply with the general permit provisions for storm water discharges; or [ 2005, c. 247, §4 (NEW); 2005, c. 247, §7 (AFF) . ]

B. The Department of Environmental Protection has determined that a storm water discharge permit is not required. [ 2005, c. 247, §4 (NEW); 2005, c. 247, §7 (AFF) . ]

[ 2005, c. 247, §4 (NEW); 2005, c. 247, §7 (AFF) . ]

**7. Local ordinances.** This subchapter may not be construed to limit a municipality's home rule authority to enact ordinances with respect to automobile graveyards, automobile recycling businesses and junkyards that the municipality determines reasonable, including, but not limited to, ordinances concerning:

- A. Compliance with state and federal solid waste and hazardous waste regulations; [2003, c. 312, §9 (NEW).]
- B. Fire and traffic safety; [2003, c. 312, §9 (NEW).]
- C. Levels of noise that can be heard outside the premises; [2003, c. 312, §9 (NEW).]
- D. Distance from existing residential or institutional uses; [2003, c. 312, §9 (NEW).]
- E. The effect on groundwater and surface water, as long as municipal ordinances on groundwater are no less stringent than or inconsistent with rules adopted by the Department of Environmental Protection; and [2003, c. 312, §9 (NEW).]
- F. Best management practices for automobile graveyards, junkyards and automobile recycling businesses developed by the Department of Environmental Protection. [2003, c. 312, §9 (NEW).]

Municipal officers or county commissioners shall consider compliance with these local ordinances in deciding whether to grant or deny a permit for any automobile graveyard, automobile recycling business or junkyard and in attaching conditions of approval to a permit.

[ 2003, c. 312, §9 (NEW) . ]

**8. Applicability.** Municipalities may apply local ordinances adopted previously under subsection 7 pertaining to automobile graveyards and junkyards to an automobile recycling business without amending those ordinances to include automobile recycling businesses. A municipality must provide notice of its intent to apply these ordinances at the time an application for an automobile recycling business permit is filed.

[ 2003, c. 312, §9 (NEW) . ]

**9. Right of entry.** Municipal officers or their designees may, to carry out the provisions of this subchapter or to determine compliance with any laws, ordinances, license or permit approvals, decisions or conditions:

- A. Enter any automobile graveyard, junkyard or automobile recycling business property and inspect all outside areas, equipment and activities at reasonable hours for compliance with the laws or ordinances set forth in accordance with this subchapter; and [2003, c. 312, §9 (NEW).]
- B. Enter any building on the property with the consent of the owner, occupant or agent to inspect the building and activities within the building for compliance with the laws or ordinances set forth in accordance with this subchapter. [2003, c. 312, §9 (NEW).]

A municipal officer's or designee's entry onto property under this subsection is not a trespass.

[ 2003, c. 312, §9 (NEW) . ]

**10. Standard for permit.** The municipal officers or county commissioners may issue a permit to an automobile graveyard or junkyard if that automobile graveyard or junkyard meets the operating standards set forth in subsection 5.

[ 2005, c. 424, §5 (NEW) . ]

For purposes of revocation or suspension of a permit pursuant to section 3758-A, subsection 5, each of the standards set forth in this section is a condition of a permit. [2005, c. 424, §6 (NEW).]

#### SECTION HISTORY

2003, c. 312, §9 (NEW). 2005, c. 247, §§1-4 (AMD). 2005, c. 247, §7 (AFF). 2005, c. 424, §§3-6 (AMD). 2005, c. 683, §A51 (AMD).

## **§3755. LIMITATIONS ON GRAVEYARD, AUTOMOBILE RECYCLING BUSINESS AND JUNKYARD PERMITS**

*(REPEALED)*

### **SECTION HISTORY**

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1991, c. 745, §2 (AMD). 1993, c. 173, §5 (AMD). 2003, c. 312, §10 (RP).

## **§3755-A. AUTOMOBILE RECYCLING BUSINESS PERMITS; OPERATION STANDARDS**

**1. Application.** An application for an automobile recycling business permit must include the following information:

- A. The name and address of the property owner; [1993, c. 173, §6 (NEW).]
- B. The name and address of the person or entity who will operate the site; and [1993, c. 173, §6 (NEW).]
- C. A site plan, including:
  - (1) Property boundary lines;
  - (2) A description of the soils on the property;
  - (3) The location of any sand and gravel aquifer recharge areas;
  - (4) The location of any residence or school within 500 feet of where the cars will be stored;
  - (5) The location of any body of water on the property or within 200 feet of the property lines;
  - (6) The boundaries of the 100-year flood plain;
  - (7) The location of all roads within 1,000 feet of the site;
  - (8) A plan for containment of fluids, containment and disposal of batteries and storage or disposal of tires; and
  - (9) The location within the property boundary lines where vehicles are drained, dismantled or stored. [1993, c. 173, §6 (NEW).]

[ 1993, c. 173, §6 (NEW) .]

**2. Standards for permit.** The municipality may issue a permit to an automobile recycling business if the business demonstrates that the business meets the operation standards set forth in subsection 3.

[ 1993, c. 173, §6 (NEW) .]

**3. Operation standards.** An automobile recycling business licensed under this section must meet the following standards.

- A. The site of the yard must be enclosed by a visual screen that complies with the screening requirements of section 3754-A. [2003, c. 312, §11 (AMD).]
- B. A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland, as defined by Title 38, section 436-A, subsection 5. [2003, c. 312, §11 (AMD).]

C. A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued. [1993, c. 173, §6 (NEW).]

D. A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area. [1993, c. 173, §6 (NEW).]

E. A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain. [1993, c. 173, §6 (NEW).]

F. Except as provided in subsection 3754-A, subsection 4, a vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence. [2003, c. 312, §11 (AMD).]

G. A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner. [1993, c. 173, §6 (NEW).]

H. Dismantling of a vehicle must be performed in accordance with the following standards.

(1) Batteries must be removed.

(2) All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.

(3) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.

(4) Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.

(5) A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.

(6) All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition. Motor vehicles acquired by and on the premises of an automobile recycling business prior to October 1, 2005 must have all fluids, refrigerant, batteries and mercury switches removed by January 1, 2007. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable.

(7) All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding. Fluids required to be removed under this subparagraph must be removed to the greatest extent practicable. [2005, c. 683, Pt. A, §52 (AMD).]

[ 2005, c. 683, Pt. A, §52 (AMD) .]

**4. Revocation or suspension of permit.** For purposes of section 3758-A, subsection 5, each of the standards set forth in this section are conditions of a permit.

[ 2003, c. 1, §32 (COR) .]

**5. Relationship to automobile graveyard permit.** A person who recycles automobiles but does not qualify for, or loses, an automobile recycling business permit may apply for an automobile graveyard permit.

[ 1993, c. 173, §6 (NEW) .]

#### SECTION HISTORY

1993, c. 173, §6 (NEW). RR 2003, c. 1, §32 (COR). 2003, c. 312, §11 (AMD). 2005, c. 247, §5 (AMD). 2005, c. 247, §7 (AFF). 2005, c. 683, §A52 (AMD).

## §3756. PERMIT FEES

The municipal officers or county commissioners shall collect, in advance from the applicant for a permit, a fee in accordance with the following schedule: [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Graveyard or junkyard.** Fifty dollars for each application for an automobile graveyard or junkyard plus the cost of posting and publishing the notice under section 3754;

[ 2005, c. 424, §7 (AMD) .]

**2. Graveyard or junkyard within 100 feet from highway.**

[ 2003, c. 312, §12 (RP) .]

**3. Recycling business.** Two hundred fifty dollars for a 5-year permit for an automobile recycling business plus the cost of posting and publishing the notice under section 3754; or

[ 2003, c. 312, §12 (AMD) .]

**4. Fee.** A fee as otherwise established by municipal ordinance or rule.

[ 2003, c. 312, §12 (NEW) .]

### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 173, §7 (AMD). 2003, c. 312, §12 (AMD). 2005, c. 424, §7 (AMD).

## §3757. PROVISIONS REGARDING NUISANCES UNAFFECTED

This subchapter shall not be construed as in any way repealing, invalidating or abrogating Title 17, section 2802, or limiting the right of prosecutions under that section. Violation of this subchapter in the establishment, maintenance or operation of any automobile graveyard or junkyard constitutes prima facie evidence that the yard is a nuisance as defined in Title 17, section 2802. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## §3758. VIOLATION

*(REPEALED)*

### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1991, c. 824, §B8 (AMD). 1993, c. 173, §8 (AMD). 2003, c. 312, §13 (RP).

## §3758-A. VIOLATIONS

**1. Enforcement.** All state, county and local law enforcement officers shall enforce the provisions of this subchapter.

[ 2003, c. 312, §14 (NEW) .]

**2. Municipal authority.** Municipal officers or their designees may enforce the provisions of this subchapter pursuant to:

A. The enforcement of land use laws and ordinances under section 4452; [2003, c. 312, §14 (NEW) .]

B. The litter control provisions of Title 17, chapter 80; or [2003, c. 312, §14 (NEW) .]

C. The abatement of nuisance provisions of Title 17, chapter 91. [2003, c. 312, §14 (NEW) .]

[ 2003, c. 312, §14 (NEW) .]

**3. Penalties.** Violations of this subchapter are subject to the penalty provisions of section 4452; Title 17, sections 2264-A and 2264-B; or Title 17, chapter 91. Each day that the violation continues constitutes a separate offense.

[ 2003, c. 312, §14 (NEW) .]

**4. Abatement.** If the municipality is the prevailing party in an action taken pursuant to the provisions of this Title or Title 17 as outlined in subsection 2 and the violator does not complete any ordered correction or abatement in accordance with the ordered schedule, the municipal officers or designated agent may enter the property and may act to abate the site in compliance with the order. To recover any actual and direct expenses incurred by the municipality in the abatement of the nuisance, the municipality may:

A. File a civil action against the owner to recover the cost of abatement, including the expense of court costs and reasonable attorney's fees necessary to file and conduct the action; [2003, c. 312, §14 (NEW) .]

B. File a lien on real estate where the junkyard, automobile graveyard or automobile recycling business is located; or [2003, c. 312, §14 (NEW) .]

C. Assess a special tax on real estate where the junkyard, automobile graveyard or automobile recycling business is located. This amount must be included in the next annual warrant to the tax collector of the municipality, for collection in the same manner as other state, county and municipal taxes are collected. Interest as determined by the municipality pursuant to Title 36, section 505 in the year in which the special tax is assessed accrues on all unpaid balances of the special tax beginning on the 60th day after the day of commitment of the special tax to the collector. The interest must be added to and becomes a part of the tax. [2003, c. 312, §14 (NEW) .]

[ 2003, c. 312, §14 (NEW) .]

**5. Revocation or suspension of permit.** Violation of any condition, restriction or limitation inserted in a permit by the municipal officers or county commissioners is cause for revocation or suspension of the permit by the same authority that issued the permit. A permit may not be revoked or suspended without a hearing and notice to the owner or the operator of the automobile graveyard, automobile recycling business or junkyard. Notice of hearing must be sent to the owner or operator by registered mail at least 7 but not more than 14 days before the hearing. The notice must state the time and the place of hearing and contain a statement describing the alleged violation of any conditions, restrictions or limitations inserted in the permit.

The municipal officers or county commissioners shall provide written or electronic notice of the hearing to the automobile dealer licensing section of the Department of the Secretary of State, Bureau of Motor Vehicles at least 7 days before the hearing.

[ 2005, c. 424, §8 (AMD) .]

**6. Removal of all materials after permit denial or revocation.** The owner or operator of a junkyard, automobile graveyard or automobile recycling business for which a permit has been denied or revoked shall, not later than 90 days after all appeals have been denied, begin the removal of all vehicles, vehicle parts and materials associated with the operation of that junkyard, automobile graveyard or automobile recycling business. The property must be free of all scrapped or junked vehicles and materials not later than 180 days after denial of all appeals. An alternative schedule for removal of junk or vehicles may be employed if specifically approved by the municipal officers or county commissioners.

[ 2003, c. 312, §14 (NEW) .]

#### SECTION HISTORY

2003, c. 312, §14 (NEW). 2005, c. 424, §8 (AMD).

### §3759. RULES

*(REPEALED)*

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 2003, c. 312, §15 (RP).

### §3760. RELOCATION, REMOVAL, DISPOSAL, COMPENSATION AND CONDEMNATION

**1. Acquisition of land.** If the Department of Transportation determines that the topography of the land adjacent to any portion of a highway incorporated in the Interstate or Primary Systems does not permit adequate screening under section 3754-A, subsection 1 or that adequate screening is not economically feasible, it may acquire by gift, purchase or condemnation any interests in property that are necessary to secure the relocation, removal or disposal of the automobile graveyards or junkyards.

[ 2003, c. 312, §16 (AMD) .]

**2. Compensation.** In the case of such acquisition, just compensation shall be paid to the owner for the relocation, removal or disposal of the following automobile graveyards and junkyards:

A. Those which were operating and in existence on May 11, 1966 and located in areas adjacent to any portion of a highway incorporated in the Interstate or Primary Systems, which exceed federal restrictions and for which federal funds are available to defray the costs; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Those in operation along any highway made a part of the Interstate or Primary Systems on or after May 11, 1966; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]



C. Those in operation and established on or after May 11, 1966. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Procedures.** The purchase, condemnation, negotiation, assessment of damage and appeal procedures shall be in accordance with this section and Title 23, sections 153-A to 159.

[ 1993, c. 536, §4 (AMD) .]

**4. Use of federal funds.** This section does not prevent the department from participating with the owner when federal funds are available to defray costs of screening junkyards whenever it is determined to be more feasible to screen rather than to be involved in the cost or impact of acquisition and relocation.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 536, §4 (AMD). 2003, c. 312, §16 (AMD) .

## Subchapter 1-A: SCRAP METAL PROCESSORS

### §3771. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 549, §1 (NEW).]

**1. Beverage container.** "Beverage container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer and contained, at the time of sale, a beverage, as defined by Title 38, section 3102, subsection 1, but does not include a beer keg.

[ 2015, c. 166, §9 (AMD) .]

**2. Nonferrous metal.** "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous metal" includes the following metals and their alloys:

A. Copper; [2007, c. 549, §1 (NEW).]

B. Brass; [2007, c. 549, §1 (NEW).]

C. Aluminum; [2007, c. 549, §1 (NEW).]

D. Bronze; [2007, c. 549, §1 (NEW).]

E. Lead; [2007, c. 549, §1 (NEW).]

F. Zinc; [2007, c. 549, §1 (NEW).]

G. Nickel; and [2007, c. 549, §1 (NEW).]

H. Platinum. [2007, c. 549, §1 (NEW).]

[ 2007, c. 549, §1 (NEW) .]

**3. Record.** "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[ 2007, c. 549, §1 (NEW) .]

**4. Scrap metal.** "Scrap metal" means metal that can be recycled, including, but not limited to, bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

[ 2007, c. 549, §1 (NEW) .]

**5. Scrap metal processor.** "Scrap metal processor" means a person that purchases scrap metal for resale or recycling.

[ 2011, c. 545, §1 (AMD) .]

**6. Seller.** "Seller" means any person that receives in a transaction monetary consideration from a scrap metal processor in exchange for nonferrous metal, iron or steel, including stainless steel. "Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale scrap metal generated in a manufacturing or production process to a scrap metal processor.

[ 2007, c. 549, §1 (NEW) .]

#### SECTION HISTORY

2007, c. 549, §1 (NEW). 2011, c. 545, §1 (AMD). 2015, c. 166, §9 (AMD).

## §3772. RECORDS OF PURCHASES MAINTAINED BY SCRAP METAL PROCESSORS

**1. Maintenance of records requirement.** Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction.

[ 2011, c. 545, §2 (AMD) .]

**1-A. Form and method of payment.** A scrap metal processor shall provide payment to a seller only in the form of a credit card, as defined in Title 9-A, section 1-301, subsection 16, a debit card, as defined in Title 10, section 1271, subsection 3, or a check. If payment is made by check, the scrap metal processor shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

[ 2013, c. 141, §1 (AMD) .]

**2. Exception.** A scrap metal processor doing business in the State is not required to maintain individual records for a series of scrap metal purchase transactions made pursuant to a written contract or bill of sale.

[ 2007, c. 549, §1 (NEW) .]

**3. Information required.** The record of each scrap metal purchase transaction required under subsection 1 must be on a form prescribed by the Commissioner of Public Safety and contain the following information:

A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a driver's license, military identification card, passport or other form of government-issued photo identification. The scrap metal processor shall photocopy the form of

photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor shall photograph the seller. A scrap metal processor shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor to record the information one time and relate future purchase records to that information; [2011, c. 545, §4 (AMD).]

B. The date of the scrap metal purchase transaction; [2007, c. 549, §1 (NEW).]

C. A general description of the predominant types of scrap metal purchased, which must be made in accordance with the custom of the trade; [2007, c. 549, §1 (NEW).]

D. A general description of the configuration of the scrap metal and whether the material is insulated; [2007, c. 549, §1 (NEW).]

E. The weight, quantity or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased; [2007, c. 549, §1 (NEW).]

F. The consideration paid; [2011, c. 545, §5 (AMD).]

G. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal on a form provided by the buyer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453; and [2011, c. 545, §6 (AMD).]

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal. [2011, c. 545, §7 (NEW).]

[2015, c. 206, §10 (AMD).]

#### SECTION HISTORY

2007, c. 549, §1 (NEW). 2011, c. 545, §§2-7 (AMD). 2013, c. 141, §1 (AMD). 2015, c. 206, §10 (AMD).

### §3773. MAINTENANCE OF RECORDS AND STATEMENTS

The records required under section 3772, subsection 3 must be: [2007, c. 549, §1 (NEW).]

**1. Retain for one year.** Retained for a period of one year; and

[2007, c. 549, §1 (NEW).]

**2. Availability.** Made available to any law enforcement office of the State or of any municipality or county.

[2007, c. 549, §1 (NEW).]

#### SECTION HISTORY

2007, c. 549, §1 (NEW).

### §3774. APPLICATION

This subchapter does not apply to transactions involving only beverage containers. [2007, c. 549, §1 (NEW).]

#### SECTION HISTORY

2007, c. 549, §1 (NEW).

## §3775. RESTRICTIONS ON THE PURCHASE AND SALE OF SCRAP METAL

A seller may not sell and a scrap metal processor may not purchase the following scrap metal unless the seller provides to the scrap metal processor, in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal: [ 2007, c. 549, §1 (NEW) . ]

**1. Marked with certain initials.** Scrap metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;

[ 2007, c. 549, §1 (NEW) . ]

**2. Utility access covers.** Utility access covers;

[ 2007, c. 549, §1 (NEW) . ]

**3. Street lights.** Street light poles and fixtures;

[ 2007, c. 549, §1 (NEW) . ]

**4. Guard rails.** Road and bridge guard rails;

[ 2007, c. 549, §1 (NEW) . ]

**5. Street signs.** Highway or street signs;

[ 2007, c. 549, §1 (NEW) . ]

**6. Water meter covers.** Water meter covers;

[ 2007, c. 549, §1 (NEW) . ]

**7. Beer kegs.** Metal beer kegs or keg pieces including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or keg pieces may not be sold or purchased pursuant to this subchapter if the brewer's markings have been obliterated or made illegible;

[ 2007, c. 549, §1 (NEW) . ]

**8. Traffic signs.** Traffic directional and control signs;

[ 2007, c. 549, §1 (NEW) . ]

**9. Traffic signals.** Traffic light signals;

[ 2007, c. 549, §1 (NEW) . ]

**10. Marked; governmental entity.** Any scrap metal marked with the name of a governmental entity;

[ 2007, c. 549, §1 (NEW) . ]

**11. Marked; utility or railroad.** Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;

[ 2007, c. 549, §1 (NEW) . ]

**12. Certain construction or utility materials.** Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;

[ 2007, c. 549, §1 (NEW) . ]

**13. Historical markers.** Historical markers;

[ 2007, c. 549, §1 (NEW) . ]

**14. Grave markers.** Grave markers and vases; and

[ 2007, c. 549, §1 (NEW) . ]

**15. Catalytic converters.** Catalytic converters.

[ 2007, c. 549, §1 (NEW) . ]

This section does not apply to transactions in which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor. [2007, c. 549, §1 (NEW) . ]

#### SECTION HISTORY

2007, c. 549, §1 (NEW) .

### §3775-A. HOLDING PERIOD; INSPECTION

**1. Seven-day hold.** If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen or related to criminal activity, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, which may not exceed 7 days, that the scrap metal processor must retain the identified scrap metal.

[ 2011, c. 545, §8 (NEW) . ]

**2. Additional 7-day hold.** Prior to the expiration of the time period of the hold pursuant to subsection 1, a law enforcement officer may impose an additional hold period, which may not exceed 7 days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.

[ 2011, c. 545, §8 (NEW) . ]

#### SECTION HISTORY

2011, c. 545, §8 (NEW) .

### §3776. SALES BY MINORS

**1. Prohibition.** A scrap metal processor may not purchase scrap metal from a minor unless:

A. The minor is accompanied by the minor's parent or guardian; and [2007, c. 549, §1 (NEW) . ]

B. The parent or guardian provides a written statement to the scrap metal processor that the transaction is taking place with the parent's or guardian's full knowledge and consent. [2007, c. 549, §1 (NEW) . ]

[ 2007, c. 549, §1 (NEW) . ]

**2. Retention of statement.** A scrap metal processor shall preserve and keep on file and make available for inspection to any law enforcement office of the State or of any municipality or county the written statement required by subsection 1, paragraph B for not less than 3 years.

[ 2007, c. 549, §1 (NEW) .]

#### SECTION HISTORY

2007, c. 549, §1 (NEW).

## §3777. PENALTIES

*(REPEALED)*

#### SECTION HISTORY

2007, c. 549, §1 (NEW). 2011, c. 545, §9 (RP).

## §3778. VIOLATION; PENALTIES

**1. Violation.** A person may not violate this subchapter.

[ 2011, c. 545, §10 (NEW) .]

**2. Penalties.** In addition to any other penalties provided by law, the following penalties apply to violations of this subchapter:

A. A person who violates this subchapter commits a civil violation for which a fine of \$1,000 must be adjudged; [2011, c. 545, §10 (NEW).]

B. A person who violates this subchapter after having previously been adjudicated of violating this subchapter commits a civil violation for which a fine of \$3,000 must be adjudged; and [2011, c. 545, §10 (NEW).]

C. A person who violates this subchapter after having previously been adjudicated of violating this subchapter more than once commits a civil violation for which a fine of \$4,500 must be adjudged and is prohibited from acting as a scrap metal processor for 6 months. [2011, c. 545, §10 (NEW).]

[ 2011, c. 545, §10 (NEW) .]

#### SECTION HISTORY

2011, c. 545, §10 (NEW).

## Subchapter 2: CLOSING-OUT SALES

## §3781. LICENSE REQUIREMENTS

A retail establishment located in a municipality that has adopted a licensing ordinance pursuant to this section may not offer for sale a stock of goods, wares or merchandise under the designation of "closing-out sale," "going out of business sale," "discontinuance of business sale," "entire stock must go," "must sell to the bare walls" or other designation that states, directly or by implication, an intent of that person to dispose of the entire stock of goods with a view to permanently terminating further business after that disposal is complete, unless the person complies with the following requirements. [2013, c. 595, Pt. U, §9 (AMD) .]

**1. Inventory license.** Before the disposal sale begins, the person must obtain a license to conduct the sale from the municipal officers of the municipality in which the sale will be conducted or other designated licensing official as provided by ordinance.

A. The person must apply to the municipal officers or designated licensing official for the license under oath. The application must contain a complete inventory of all items to be included in the sale and must be accompanied by the payment of a license fee set by ordinance. The applicant must affirm, in writing and under oath, to the municipal officers or designated licensing official that merchandise will not be included in the stock offered for sale unless the merchandise is in or at the place of business where the sale will take place when the sale opens. Any unusual purchases and additions to the stock of goods, wares or merchandise made within 60 days before the filing of an application for a license is prima facie evidence that the purchases and additions were made in contemplation of the sale.

(1) If the applicant has been in the same business for which the sale is being conducted for less than 2 years of continuous operation in the municipality, the applicant must also affirm, in writing and under oath, that none of the merchandise was purchased before the sale opened for the purpose of selling and disposing of that merchandise at the sale. [ 2013, c. 595, Pt. U, §9 (AMD) . ]

B. The license is valid for 60 days from the date of issuance, unless revoked under subsection 3. The validity of the license may be extended for 60 additional days if the licensee provides an affidavit to the municipal officers or designated licensing official stating that all goods, wares or merchandise listed in the inventory have not been disposed of within the original 60-day period. [ 2013, c. 595, Pt. U, §9 (AMD) . ]

[ 2013, c. 595, Pt. U, §9 (AMD) . ]

**2. License issued; records preserved.** The municipal officers or designated licensing official shall immediately issue the license upon compliance with this section. The municipality shall preserve all applications for licenses and other papers filed in connection with an application as a public record in the municipal office for 5 years.

[ 2013, c. 595, Pt. U, §9 (AMD) . ]

**3. Revocation; prior violations; suspension.** The municipal officers or designated licensing official shall revoke any license issued under this subchapter if the licensee violates this section or a licensing ordinance adopted pursuant to this section and may refuse to issue another license to any applicant who has been adjudicated of violating this section or a licensing ordinance before the date of application. If any person adjudicated of any violation of this section appeals the decision or sentence of the trial court, that person's license must be suspended while the appeal is pending in the appellate court.

[ 2013, c. 595, Pt. U, §9 (AMD) . ]

#### SECTION HISTORY

1987, c. 737, §§A2, C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8, 10 (AMD). 2013, c. 595, Pt. U, §9 (AMD).

## §3782. CONTINUATION OF BUSINESS

After the termination date of the sale and any extension granted under section 3781, subsection 1, paragraph B, the person to whom the license was granted may not continue the business under the same or a different name, at the same location or elsewhere in the same municipality, contrary to the designation of the sale. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) . ]

#### SECTION HISTORY

1987, c. 737, §§A2, C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8, 10 (AMD).

## §3783. LIMITATIONS

This subchapter does not apply to: [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Public auctions.** Liquidation sales by public auction of not more than 3 days duration conducted by a licensed auctioneer;

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Sheriffs' sales.** Sales conducted or made by sheriffs, deputy sheriffs, constables, collectors of taxes, executors, administrators, guardians, conservators, receivers, assignees under voluntary assignments for the benefit of creditors or insurers; or

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Sale of personal property.** Sales by any other person required by law to sell personal property.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

### SECTION HISTORY

1987, c. 737, §A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §C8,10 (AMD).

## §3784. VIOLATIONS AND PENALTIES

Notwithstanding Title 17-A, section 4-A, any licensee under section 3781, who fails to comply with that section, or any person who conducts such a disposal sale without first having obtained a license, is guilty of a Class E crime and shall be punished by a fine of not more than \$100 or by imprisonment for not more than 30 days, or both. Each day on which a sale is conducted in violation of this subchapter constitutes a separate offense. In addition to the penalties set forth, the Superior Court has jurisdiction, upon the complaint of any person, to enjoin any sale, or other acts, being performed in violation of section 3781. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

### SECTION HISTORY

1987, c. 737, §A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §C8,10 (AMD).

## Subchapter 3: INNKEEPERS, VICTUALERS AND LODGING HOUSES

### Article 1: GENERAL PROVISIONS

## §3801. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]



**1. Innkeeper.** "Innkeeper" means a person who keeps an inn, hotel or motel to provide lodging to travelers and others for compensation and who maintains the sleeping accommodations. An innkeeper is not a landlord pursuant to the landlord and tenant laws as provided in Title 14.

[ 2013, c. 209, §1 (AMD) .]

**2. Licensing board.** "Licensing board" means the municipal officers of a municipality, as provided in section 3812.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Lodging house.** "Lodging house" means a house where lodgings are rented, but does not include:

A. A house where lodgings are rented to fewer than 5 lodgers;

(1) The term "lodger" does not include persons within the 2nd degree of kindred to the person operating the lodging house; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The dormitories of charitable, educational or philanthropic institutions; or [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. The emergency use of private dwelling houses at the time of conventions or similar public gatherings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Victualer.** "Victualer" means a person who serves food or drink prepared for consumption on the premises by the public.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 2013, c. 209, §1 (AMD).

## §3802. POSTING OF RATES; LIABILITY FOR OVERCHARGE

**1. Maximum rate schedule.** Every keeper of a hotel, inn, boardinghouse or lodging house shall post in every bedroom:

A. A schedule of the maximum daily rates for that room for occupancy by one or more persons; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any requirement for a minimum number of days for which that room must be rented. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Overcharge liability.** No keeper may charge or collect a sum greater than the rate shown in the posted schedule. Any keeper who charges or collects more than the rate shown in the posted schedule is liable to the person so charged or who paid the bill in an amount equal to the total amount of the bill collected minus the rate shown in the posted schedule.

[ 2005, c. 185, §1 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 2005, c. 185, §1 (AMD).

## Article 2: LICENSES

### §3811. LICENSE REQUIRED

A person may not be a common innkeeper or tavernkeeper without a license. A person who violates this section commits a civil violation for which a forfeiture of not more than \$50 may be adjudged. [1997, c. 446, §1 (AMD).]

**1. Lodging houses; licenses.** The municipal officers may enact ordinances requiring lodging houses to be licensed. These licenses may be issued by the licensing board under section 3812 and are subject to the same expiration dates provided in that section.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1997, c. 446, §1 (AMD).

### §3812. LICENSING BOARD; GRANTING AND REVOCATION OF LICENSES

**1. Licensing board.** The municipal officers of every municipality shall serve as the licensing board for the issuance of innkeepers' and tavernkeepers' licenses.

[ 1997, c. 446, §2 (AMD) .]

**2. Meetings.** The licensing board shall meet as provided in this subsection.

A. They shall meet annually during the month of May on a date and at a time and place in the municipality that they determine. At least 7 days before the meeting, they must post notices stating the purpose of the meeting in at least 2 public places in the municipality. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The licensing board may meet at any other time at a meeting specially called and with public notice as provided in paragraph A. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Issuance and revocation of licenses.** At any meeting held under subsection 2, the licensing board may do the following.

A. The board may license as many persons of good moral character to be innkeepers or tavernkeepers in the municipality as it considers necessary.

(1) The license must specify the building in which the business will be conducted.

(2) The board may issue the license under any restrictions and regulations that it considers necessary. [1997, c. 446, §3 (AMD).]

B. The board may revoke any license previously granted under this section as provided in section 3814. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1997, c. 446, §3 (AMD) .]

**4. License expiration.** All licenses granted under this section expire one year after issuance.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1997, c. 446, §§2,3 (AMD).

### §3813. FEE

Every person licensed as an innkeeper or tavernkeeper shall pay to the treasurer for the use of the municipality a fee of \$1 and any additional amount established by ordinance or bylaw of the municipality. [1997, c. 446, §4 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1997, c. 446, §4 (AMD).

### §3814. REVOCATION OR SUSPENSION OF LICENSE; HEARING; APPEAL

**1. Applicability.** This section applies to all licenses issued by the licensing authorities authorized under this subchapter and section 3931.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Revocation or suspension of license.** The licensing authority designated in this subchapter and section 3931 shall enforce this subchapter and section 3931 and shall prosecute all offenders. If the licensing authority is satisfied that the licensee is unfit to hold a license, it may revoke the license at any time. For any cause which it considers satisfactory, the licensing authority may suspend a license for any period of time that it considers proper.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Hearing.** A license may not be revoked or suspended under subsection 2 until after investigation and hearing. The licensing authority shall serve notice of the hearing on the licensee or leave it at the licensed premises at least 3 days before the time set for hearing. At the hearing, the licensee must be given an opportunity to:

A. Hear the evidence in support of the charge against the licensee and to cross-examine, alone or through counsel, the witnesses; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Be heard in the licensee's own defense. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**4. Appeal.** Appeal from the decision of the licensing authority to the Superior Court in the county in which the licensing authority is located may be obtained in the manner provided in the Maine Rules of Civil Procedure. Courts of competent jurisdiction, for due cause shown, may issue temporary orders restraining the enforcement of revocations or suspensions, and after full hearing may vacate those temporary orders or make them permanent.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## Article 3: REGISTRATION OF GUESTS

### §3821. REGISTER; CONTENTS; INSPECTION; PENALTY

**1. Register of guests.** Every person conducting a hotel or lodging house shall have a register kept and maintained in the hotel or lodging house at all times. The name of every guest or person renting a room or rooms in the hotel or lodging house must be written in the register. The person renting the room or rooms, or someone under that person's direction, shall sign the register. The proprietor of the hotel or lodging house, or the proprietor's agent, shall then write the number of each room assigned to each guest, together with the date that room is rented, opposite the name or names so registered. A guest of a hotel or lodging house is not a tenant pursuant to the landlord and tenant laws as provided in Title 14.

[ 2013, c. 209, §2 (AMD) .]

**2. Record of departures.** The proprietor or the proprietor's agent shall keep and maintain a record showing the date when the occupant of each room surrenders the room. This record may be made a part of the register.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Availability for inspection.** Both the register and the record must be kept for 2 years and be available at all reasonable times to the inspection of any lawful agent of the licensing authority or any full-time law enforcement officer as defined in Title 25, section 2801-A, subsection 4. The guest register may be "kept," within the meaning of this section, when reproduced on any photographic, microfilm or other process that reproduces the original record.

[ 2005, c. 397, Pt. A, §30 (AMD) .]

**4. Violation and penalty.** Notwithstanding Title 17-A, section 4-A, any person who willfully violates this section is guilty of a Class E crime and shall be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 90 days for each offense, or both.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1995, c. 88, §1 (AMD). 2005, c. 185, §2 (AMD). 2005, c. 397, §A30 (AMD). 2013, c. 209, §2 (AMD).

## §3822. REGISTER OF TRUE NAME

**1. Registration.** All persons renting a room or rooms in a hotel or lodging house must register or have themselves registered in the hotel or lodging house register. The innkeeper may require the registering guest to produce a valid driver's license, or other identification satisfactory to the innkeeper, setting forth the name and residence of the guest. If the guest is a minor, the innkeeper may require a parent of the guest to register and to accept in writing liability for the guest room costs, taxes, all charges incurred by the minor and any damages to the guest room or its furnishings caused by the minor while a guest at the hotel or lodging house.

[ 2005, c. 185, §3 (AMD) .]

**2. True name required.** No person may write, or have written by another person in any hotel or lodging house register, any name or designation other than the true name or names ordinarily used by that person. No person in charge of a hotel or lodging house register may knowingly permit any name or designation to be written other than the true name or names in ordinary use of the person registering or being registered by another person.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Penalty.** Any person who violates this section commits a civil violation for which a forfeiture of not less than \$10 nor more than \$25 may be adjudged for each offense.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD). ]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1995, c. 88, §2 (AMD). 2005, c. 185, §3 (AMD).

### §3823. POSTING OF LAW NEAR REGISTER

The licensing authority may require all licensed innkeepers and all licensees under section 3811 to post a notice furnished under this section in a conspicuous place near the register. The licensing authority shall provide this notice which shall contain the text of sections 3821 and 3822, relating to the entry of names in the register, together with the penalties provided in those sections for their violations. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## Article 4: DUTIES AND OBLIGATIONS

### §3831. INNKEEPERS

Every innkeeper shall, at all times, be furnished with suitable provisions and lodging for strangers and travelers. The innkeeper shall grant such reasonable accommodations as occasion requires to strangers, travelers and others. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3832. VICTUALERS

Every victualer has all the rights and privileges and is subject to all the duties and obligations of an innkeeper, except furnishing lodging for travelers. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3833. GAMBLING PROHIBITED

**1. Prohibited games and activities.** No innkeeper or victualer may:

A. Have or keep for gambling purposes about the business establishment any dice, cards, bowls, billiards, quoits or other implements used in gambling; or [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Allow any person resorting to the establishment to use for gambling purposes any of the games under subsection 1, or any other illegal game or sport in the establishment. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Penalty.** Any person who uses any game or sport prohibited by this section for gambling purposes in any prohibited establishment commits a civil violation for which a forfeiture of \$5 may be adjudged.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3834. DISORDERLY CONDUCT PROHIBITED

**1. Prohibited conduct.** No innkeeper, hotelkeeper, boardinghouse keeper, lodging house keeper, campground operator or keeper or victualer may allow any reveling, riotous or disorderly conduct, drunkenness or excess in the inn, hotel, boardinghouse, lodging house, restaurant, shop or other premises.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Penalty.** Notwithstanding Title 17-A, section 4-A, whoever refuses or fails to leave any such place when requested to do so by the owner, manager, clerk, agent or employee of the owner or manager is guilty of a Class D crime and shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or both.

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §34 and Pt (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A34,C8,C10 (AMD).

### §3835. REMOVAL OF HOTEL PROPERTY

Notwithstanding Title 17-A, section 4-A, any person who removes or attempts to remove from any hotel, inn, boardinghouse, lodging house, campground or restaurant any article of property belonging to or in use in that establishment is guilty of a Class D crime and shall be punished by a fine of not more than

\$1,000 or by imprisonment for not more than 11 months, or both. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### **§3836. DAMAGE TO HOTEL PROPERTY**

Notwithstanding Title 17-A, section 4-A, any guest, boarder, occupant or other person in a hotel, inn, boardinghouse, lodging house, campground or restaurant who intentionally destroys or damages any property belonging to or in use in that establishment is guilty of a Class D crime and shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months, or both. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### **§3837. EJECTION OF DISRUPTIVE OR DESTRUCTIVE PERSONS; DAMAGE TO PROPERTY**

The owner or manager of an inn, hotel, restaurant, lodging house, camping area or boardinghouse may request that any person on the premises of that establishment who is causing unnecessary disturbance to other persons on the premises or who is damaging or destroying property belonging to or in use by the inn, hotel, restaurant, lodging house, camping area or boardinghouse leave the premises immediately. If any person who is requested to leave the premises under this section fails or refuses to do so, the owner or manager may use a reasonable degree of force against that person to remove that person from the premises. If any person who is requested to leave the premises under this section fails or refuses to do so, the owner or manager may request a law enforcement officer to remove that person from the premises. [2013, c. 209, §3 (AMD).]

Any person who is requested to leave the premises of an inn, hotel, restaurant, lodging house, camping area or boardinghouse or is ejected from the premises under this section, in addition to any other liability or penalty, is liable for the value of any property belonging to or in use by the inn, hotel, restaurant, lodging house, camping area or boardinghouse which is damaged or destroyed as a result of conduct while on the premises or which is damaged or destroyed during ejection from the premises under this section. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 2013, c. 209, §3 (AMD).

### **§3838. REFUSAL OR DENIAL OF ACCOMMODATIONS; EJECTION**

An innkeeper or campground owner may refuse or deny any accommodations, facilities or privileges of a hotel, lodging house or campground to or may eject from the hotel, lodging house or campground premises or may request a law enforcement officer to remove from the premises: [2013, c. 209, §4 (AMD).]



**1. Person unwilling or unable to pay.** Any person who is unwilling or unable to pay for accommodations and services of the hotel, lodging house or campground. The innkeeper or campground owner may require the prospective guest to demonstrate the ability to pay by cash, valid credit card or a validated check;

[ 1997, c. 59, §1 (AMD) .]

**2. Minor.** Any person who has not attained 18 years of age. An innkeeper or campground owner may, at the innkeeper's or campground owner's discretion, grant the accommodations, facilities and privileges of a hotel, lodging house or campground to a minor if that minor:

A. Presents a signed notification from a parent that the parent accepts liability for the guest room or campground site costs, taxes, all charges by the minor and any damages to the guest room or its furnishings or to the campground site caused by the minor while a guest at the hotel, lodging house or campground; and [ 2005, c. 185, §4 (AMD) .]

B. Provides the innkeeper or campground owner with a valid credit card number or cash deposit to cover the guest room or campground site costs, taxes, charges by the minor and any damages to the guest room or its furnishings or to the campground site caused by the minor. Any cash deposit provided must be refunded to the extent not used to cover any charges or damages as determined by the innkeeper or campground owner following room or campground site inspection at check-out; [ 1997, c. 59, §1 (AMD) .]

[ 2005, c. 185, §4 (AMD) .]

**3. Property dangerous to others.** Any person the innkeeper or campground owner reasonably believes is bringing in property that may be dangerous to other persons, such as firearms or explosives;

[ 1997, c. 59, §1 (AMD) .]

**4. Limit on occupants exceeded.** Any person or persons, if admitting that person or those persons would cause the limit on the number of persons who may occupy any particular guest room in the hotel or lodging house or a site in the campground to be exceeded. For purposes of this subsection, the limit represents the number permitted by local ordinances or reasonable standards of the hotel, lodging house or campground relating to health, safety or sanitation; or

[ 1997, c. 59, §1 (AMD) .]

**5. Violates laws or rules; endangers others.** Any person who:

A. Disturbs, threatens or endangers other guests; [ 1995, c. 88, §3 (NEW) .]

B. Is a minor and possesses or uses alcohol; [ 1995, c. 88, §3 (NEW) .]

C. Possesses or uses illegal drugs; or [ 1995, c. 88, §3 (NEW) .]

D. Violates any rule of the hotel, lodging house or campground that is posted in a conspicuous place and manner at the guest registration desk and in each guest room. [ 1997, c. 59, §1 (AMD) .]

Nothing in this section authorizes an innkeeper or campground owner to violate the Maine Human Rights Act, Title 5, chapter 337.

[ 1997, c. 59, §1 (AMD) .]

#### SECTION HISTORY

1995, c. 88, §3 (NEW). 1997, c. 59, §1 (AMD). 2005, c. 185, §4 (AMD). 2013, c. 209, §4 (AMD).

## Article 5: SAFEKEEPING AND LIABILITY

### §3851. LIABILITY FOR LOSS WHERE SAFE PROVIDED

Except as provided in subsection 2, no keeper of any inn, hotel or boardinghouse is liable for the loss of or injury to any articles or property of the kind specified in subsection 1 if the following conditions are met. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Conditions.** The keeper of the inn, hotel or boardinghouse must:

A. Have constantly in his inn, hotel or boardinghouse a metal safe or suitable vault in good condition and fit for the custody of:

- (1) Money;
- (2) Bank notes;
- (3) Jewelry;
- (4) Articles of gold or silver manufacture;
- (5) Precious stones;
- (6) Personal ornaments;
- (7) Travel tickets;
- (8) Negotiable or valuable papers; and
- (9) Bullion; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Keep suitable locks or bolts on the doors of, and suitable fastenings on the transoms and windows of, the sleeping rooms used by guests; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Keep a copy of this section printed in distinct type constantly and conspicuously posted in a conspicuous place at or near the guest registration desk and in each guest room. [1995, c. 88, §4 (AMD).]

[ 1995, c. 88, §4 (AMD) .]

**2. Exceptions.** The immunity from liability under subsection 1 does not apply in the following situations.

A. The keeper of the inn, hotel or boardinghouse may be held liable when the guest has offered to deliver articles or property of the kind specified in subsection 1 to the keeper of the inn, hotel or boardinghouse for custody in the safe or vault and the keeper has omitted or refused to take the property and deposit it in the safe or vault for custody and to give the guest a receipt for the goods.

- (1) The keeper of any inn, hotel or boardinghouse is not required to receive from any one guest for deposit in the safe or vault any property of the kind specified in subsection 1 which exceeds a total value of \$300. The keeper is not liable for any excess of such property, whether received or not. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Every keeper of an inn, hotel or boardinghouse is liable for any guest's loss of the articles or property listed in subsection 1 after those articles have been accepted for deposit, if the loss is caused by the theft or negligence of the keeper or any of the keeper's employees. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §35 and Pt (AMD).]

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §35 and Pt (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A35,C8,C10 (AMD). 1995, c. 88, §4 (AMD).

### **§3852. SPECIAL ARRANGEMENTS TO RECEIVE DEPOSITS**

Any keeper of an inn, hotel or boardinghouse may, by special arrangement with a guest, receive for deposit in the safe or vault any property upon any terms that they agree to in writing. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### **§3853. CHECK OR RECEIPT FOR PROPERTY DELIVERED FOR SAFEKEEPING**

Every guest and every person intending to be a guest of any hotel, inn or boardinghouse in this State, upon delivering any baggage or other articles of property of the guest to the proprietor of the hotel, inn or boardinghouse or to the proprietor's employees for safekeeping elsewhere than in the room assigned to that guest, shall demand, and the hotel or inn proprietor shall give, a check or receipt for the baggage or other property to evidence the fact of the delivery. No proprietor is liable for the loss of or injury to the baggage or other property of the guest, unless the guest has actually delivered the baggage or other property to the proprietor or employees for safekeeping, or unless the loss or injury occurs through the negligence of the proprietor or employees in the hotel or inn. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §36 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A36,C8,C10 (AMD).

### **§3854. NATURE OF LIABILITY; LIMIT**

The liability of the keeper of any inn, hotel or boardinghouse for loss of or injury to personal property placed by guests under the keeper's care, other than that described in sections 3851 to 3853, shall be that of a depository for hire, except that if the loss or injury is caused by fire not intentionally produced by the keeper or employees, the keeper is not liable. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §37 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

**1. Limit on liability.** In no case may liability exceed the sum of \$150 for each trunk and its contents; \$50 for each piece of luggage and its contents; \$10 for each box, bundle or package and its contents, so placed under the keeper's care; and for all other miscellaneous effects, including wearing apparel and personal belongings, \$50, unless the keeper of the inn, hotel or boardinghouse has consented in writing with the guest to assume a greater liability.

[ 1987, c. 737, Pt. A, §2 (AMD); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Property held for person not a guest.** Whenever any person allows baggage or property to remain in any inn, hotel or boardinghouse after leaving the same as a guest and after the relation of keeper and guest between the guest and the proprietor of the inn, hotel or boardinghouse has ceased, or forwards baggage or property to an inn, hotel or boardinghouse before becoming a guest of that establishment, and the baggage or property is received into the inn, hotel or boardinghouse, the keeper has the option of holding that baggage or property at the owner's risk.

[ 1987, c. 737, Pt. A, §2 (AMD); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A37,C8,C10 (AMD).

## Article 6: LIENS

### §3861. LIEN ON BAGGAGE OR OTHER PROPERTY

The keeper of any inn, hotel or boardinghouse has a lien on the baggage and other property in and about the inn, hotel or boardinghouse belonging to or under the control of guests or boarders, for the proper charges due from those guests or boarders for the accommodation, board and lodging, all money paid for or advanced to them and any other extras that are furnished on request. The innkeeper, hotelkeeper or boardinghouse keeper may detain this baggage and other property until those charges are paid. The baggage and other property is exempt from attachment or execution until the keeper's lien and the cost of satisfying it are satisfied. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3862. ENFORCEMENT OF LIEN; NOTICE OF SALE; PROCEEDS

**1. Sale at auction.** The innkeeper, hotelkeeper or boardinghouse keeper shall retain any baggage and other property upon which there has been a lien for 90 days. At the end of the 90-day period, if the lien is not satisfied, the baggage and other property may be sold at public auction.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Notice required.** The innkeeper, hotelkeeper or boardinghouse keeper must:

A. Give 10 days' notice of the time and place of sale in a newspaper having general circulation in the county where the inn, hotel or boardinghouse is located; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Mail a copy of the notice addressed to the guest or boarder at the place of residence entered in the register of the inn, hotel or boardinghouse. [1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §38 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[ 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. A, §38 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Proceeds.** After using the proceeds from the sale to satisfy the lien and any costs that may accrue, the keeper shall dispose of any remainder according to Title 33, chapter 41.

[ 2003, c. 20, Pt. T, §17 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A38,C8,C10 (AMD). 2003, c. 20, §T17 (AMD).

## Article 7: VIOLATIONS AND PENALTIES

### §3871. PROSECUTIONS

The licensing board shall prosecute for any violation of sections 3811 to 3813 and 3831 to 3834 that comes to its knowledge, by complaint, indictment or civil action. All penalties recovered shall be paid to the municipality where the offense is committed. Any citizen of the State may prosecute for any violation of sections 3811 to 3813 and 3831 to 3834 in the same manner as the licensing board may prosecute. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3872. RECORD OF CONVICTIONS TO LICENSING AUTHORITY

The clerk of a court in which any person is convicted of a violation of this subchapter shall immediately send a copy of the record of the conviction to the licensing authority in the municipality where the offense occurred. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## Subchapter 4: JUNK DEALERS

### §3901. RECORDS; DEFINITIONS

Every dealer in junk shall keep a record of the name of every person selling junk to that dealer and the registration number of the motor vehicle used by that seller to deliver the junk. These records shall be open for the inspection of any officer of the law. Whoever fails to make a record as provided by this section

commits a civil violation for which a fine of not more than \$100 may be adjudged. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

As used in this section, the word "junk" means old iron, chains, brass, copper, tin, lead or other base metals, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds when less than one gross, and all articles discarded or no longer used as a manufactured article composed of any one or more of the materials mentioned. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## Subchapter 5: LUNCH WAGONS

### §3931. LICENSE; REVOCATION; OBJECTIONS

**1. Issuance of licenses.** The municipal officers of any municipality may license any reputable person to maintain a vehicle for the sale of food in such part of any public way and during such hours as the licensing authority designates.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**2. Conditions.** No other license may be required to operate a lunch wagon. The municipal officers may set a license fee which must be paid annually before the license is issued. A license may not be issued if the lunch wagon will inconvenience public travel.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

**3. Revocation.** For reasonable cause, the licensing authority may revoke any license issued under this section as provided in section 3814.

[ 1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

## Subchapter 6: PAWNBROKERS

### §3960. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1993, c. 59, §1 (NEW).]

**1. Pawn transaction.** "Pawn transaction" means the lending of money on the security of pledged tangible personal property that is delivered to a pawnbroker and held by the pawnbroker. The term also includes the purchase of tangible personal property on the condition that it may be repurchased by the seller for a fixed price within a fixed period of time.

[ 1997, c. 155, Pt. E, §1 (AMD) .]

**2. Pawnbroker.** "Pawnbroker" means a person who engages in pawn transactions.

[ 1993, c. 59, §1 (NEW) .]

**3. Tangible personal property.** "Tangible personal property" includes motor vehicles, but does not include documents evidencing title to motor vehicles. The term also does not include checks, drafts or similar instruments or real estate.

[ 1997, c. 155, Pt. E, §2 (NEW) .]

#### SECTION HISTORY

1993, c. 59, §1 (NEW). 1997, c. 155, §§E1,2 (AMD).

### §3961. LICENSE

The municipal officers of any municipality may grant licenses to persons of good moral character to be pawnbrokers in the municipality for one year, unless sooner revoked by the municipal officers for violation of law. Whoever carries on such a business without a license commits a civil violation for which a forfeiture of not more than \$100 may be adjudged. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

### §3962. ACCOUNT OF BUSINESS DONE AND DISCLOSURE TO CONSUMER

**1. Account kept.** Every pawnbroker shall maintain records in which the pawnbroker shall enter:

A. The date, duration, amount, periodic rate of interest and annual percentage rate of every loan that is made; [1993, c. 59, §2 (AMD).]

A-1. The finance charge, due dates for payment and the total payment needed to redeem or repurchase the pawned property; [1993, c. 59, §2 (NEW).]

B. An accurate account and description of the property pawned; [1993, c. 59, §2 (AMD).]

B-1. The terms of redemption or repurchase, including any reduction in the finance charge for early redemption or repurchase and the right of the consumer to at least one extension of one month at the same rate of interest upon request in writing or in person; and [1995, c. 397, §14 (AMD).]

C. The name and residence of the consumer. [1993, c. 59, §2 (AMD).]

The pawnbroker shall allow the municipal officers to inspect these records at all reasonable times.

[ 1995, c. 397, §14 (AMD) .]

**2. Delivery to consumer.** At the time of the pawn transaction, the pawnbroker shall deliver to the consumer a signed, written disclosure complying with the truth-in-lending provisions of the Maine Consumer Credit Code, Title 9-A, Article 8-A, containing the items required by subsection 1 and the name and address of the pawnbroker.

[ 2011, c. 427, Pt. D, §18 (AMD) .]

**3. List filed with law enforcement agency.** Before the 15th day of every month, the pawnbroker shall file with the law enforcement agency of jurisdiction, in a form acceptable to that agency, a summary of the pawn transactions entered into during the preceding calendar month.

[ 1993, c. 59, §2 (AMD) .]

**4. Violation.** A violation of this section constitutes a violation of Title 9-A, section 5-201, subsection 1, subject to the civil remedies of the Maine Consumer Credit Code, and constitutes a violation of the Maine Unfair Trade Practices Act.

[ 1993, c. 59, §2 (AMD) .]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 59, §2 (AMD). 1995, c. 397, §14 (AMD). 2011, c. 427, Pt. D, §18 (AMD).

## §3963. PAWN TRANSACTION TERMS

**1. Maximum finance charge established.** A pawnbroker may not directly or indirectly receive a finance charge of greater than 25% per month on that part of a loan that is \$500 or less, nor more than 20% per month on that part of a loan that is more than \$500, made upon property pawned. Accrued interest may not be incorporated as interest-bearing principal.

[ 1993, c. 59, §3 (NEW) .]

**2. Minimum finance charge authorized.** Notwithstanding subsection 1, a pawnbroker may contract for and receive a minimum charge of not more than \$2.50.

[ 1993, c. 59, §3 (NEW) .]

**3. Other charges prohibited.** A pawnbroker may not charge a fee in addition to a finance charge allowed under subsections 1 and 2.

[ 1993, c. 59, §3 (NEW) .]

**4. Time period.** The initial redemption or repurchase period of a pawn transaction, not including an extension under subsection 5, may not exceed 60 days.

[ 1993, c. 59, §3 (NEW) .]

**5. Extension required upon request.** A consumer is entitled to at least one extension of the pawn transaction of one month at the same rate of interest upon request in writing or in person.

[ 1995, c. 397, §15 (AMD) .]



**6. Violation.** A violation of this section constitutes a violation of Title 9-A, section 5-201, subject to the civil remedies of the Maine Consumer Credit Code, and constitutes a violation of the Maine Unfair Trade Practices Act.

[ 1993, c. 59, §3 (NEW) .]

Nothing in this section prohibits a pawnbroker from charging a consumer a lower rate of interest than established by this section. [1993, c. 59, §3 (RPR).]

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 59, §3 (RPR). 1995, c. 397, §15 (AMD).

### **§3964. TIME AND MANNER OF SELLING PAWNED PROPERTY; NOTICE** **(REPEALED)**

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 59, §4 (RP).

### **§3964-A. REGULATION OF PAWNBROKERS**

**1. Exemption from state license.** A pawnbroker licensed by a municipality pursuant to section 3961 is not required to obtain a supervised lender's license pursuant to Title 9-A, section 2-301 in order to engage in pawn transactions.

[ 1993, c. 59, §5 (NEW) .]

**2. Application of law.** Pawnbrokers are subject to Title 9-A, sections 6-104, 6-106, 6-202 and 6-203.

[ 1993, c. 59, §5 (NEW) .]

**3. Model forms.** The Director of Consumer Credit Regulation may issue model disclosure forms and clauses to facilitate compliance with the disclosure and computational requirements of this subchapter, pursuant to the truth-in-lending provisions of the Maine Consumer Credit Code, Title 9-A, Article 8-A.

[ 2011, c. 427, Pt. D, §19 (AMD) .]

**4. Privacy of consumer financial information.** A pawnbroker shall comply with the provisions of the federal Gramm-Leach-Bliley Act, 15 United States Code, Section 6801 et seq. (1999) and the applicable implementing federal Privacy of Consumer Information regulations, as adopted by the Office of the Comptroller of the Currency, 12 Code of Federal Regulations, Part 40 (2001); the Board of Governors of the Federal Reserve System, 12 Code of Federal Regulations, Part 216 (2001); the Federal Deposit Insurance Corporation, 12 Code of Federal Regulations, Part 332 (2001); the Office of Thrift Supervision, 12 Code of Federal Regulations, Part 573 (2001); the National Credit Union Administration, 12 Code of Federal Regulations, Part 716 (2001); the Federal Trade Commission, 16 Code of Federal Regulations, Part 313 (2001); or the Securities and Exchange Commission, 17 Code of Federal Regulations, Part 248 (2001), if the

pawnbroker is a financial institution as defined in those regulations. This subsection is not intended to permit the release of health care information except as permitted by Title 22, section 1711-C or Title 24-A, chapter 24.

[ 2001, c. 262, Pt. E, §1 (NEW) .]

#### SECTION HISTORY

1993, c. 59, §5 (NEW). 1995, c. 309, §27 (AMD). 1995, c. 309, §29 (AFF). 2001, c. 262, §E1 (AMD). 2011, c. 427, Pt. D, §19 (AMD).

### **§3965. DISPOSAL OF PROCEEDS OF SALE**

*(REPEALED)*

#### SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD). 1993, c. 59, §6 (RP).

## Subchapter 7: DEALERS IN USED PERSONAL PROPERTY

### **§3971. RECORDS OF SALES OF USED MERCHANDISE**

**1. Records required.** Every dealer in used personal property shall record the following information before completing the purchase of any used personal property:

- A. The date of the purchase; [2003, c. 582, §2 (NEW) .]
- B. The seller's name and address; and [2003, c. 582, §2 (NEW) .]
- C. A brief description of the property, including any identification numbers. [2003, c. 582, §2 (NEW) .]

Before recording the information required by this subsection, a dealer shall require reasonable written proof of the seller's identification in the form of a motor vehicle operator's license, military identification card, adult liquor identification card or similar item.

[ 2003, c. 582, §2 (NEW) .]

**2. Form of records.** The records required under subsection 1 must be kept for the purpose of complying with this section, maintained in order by date of purchase and contained either in a bound volume or ledger or in a binder in which pages can be affixed.

[ 2003, c. 582, §2 (NEW) .]

**3. Availability for inspection.** Upon request by any law enforcement officer or prosecuting attorney, a dealer in used personal property shall promptly make available for inspection at the dealer's principal place of business the records required under subsection 1.

[ 2003, c. 582, §2 (NEW) .]

**4. Violations.** A dealer in used personal property who violates any of the requirements of this section or a seller who provides false identification to a dealer is guilty of a Class E crime.

[ 2003, c. 582, §2 (NEW) .]

#### SECTION HISTORY

2003, c. 582, §2 (NEW).

## §3972. DEALERS IN SECONDHAND PRECIOUS METALS

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Dealer" means a person who engages in the business of purchasing, selling or acquiring through exchange secondhand precious metals. [ 2013, c. 398, §1 (NEW) . ]

B. "Precious metals" means any item composed in whole or in part of gold or silver, but does not include dental gold, unrefined metal ore, an electronic product, any part of a mechanical system on a motor vehicle or gold or silver coins or bullion. [ 2013, c. 398, §1 (NEW) . ]

C. "Seller" means a person who sells or provides through an exchange secondhand precious metals to a dealer. [ 2013, c. 398, §1 (NEW) . ]

[ 2013, c. 398, §1 (NEW) . ]

**2. Records required.** A dealer shall maintain the following records with respect to each transaction conducted by the dealer involving secondhand precious metals:

A. The date, time and place of the transaction; [ 2013, c. 398, §1 (NEW) . ]

B. The name and address of the seller or other person from whom the dealer acquired the precious metals; [ 2013, c. 398, §1 (NEW) . ]

C. A digital photograph of each item of precious metals that is the subject of the transaction, as well as a complete description of the item purchased or acquired from the seller, including the weight of the item and any identification numbers, names, initials, serial numbers or identifying marks on the item; [ 2013, c. 398, §1 (NEW) . ]

D. The consideration paid pursuant to the transaction; and [ 2013, c. 398, §1 (NEW) . ]

E. A signed statement of ownership from the seller of the secondhand precious metals stating that the seller is the owner or is otherwise authorized to sell the precious metals made on a form provided by the dealer that conspicuously bears the warning that making a false statement is a Class D crime under Title 17-A, section 453. [ 2013, c. 398, §1 (NEW) . ]

Before recording the information required by this subsection, a dealer shall require reasonable proof of the seller's identity in the form of a government-issued identification card such as a motor vehicle operator's license or military identification card.

[ 2013, c. 398, §1 (NEW) . ]

**3. Retention and maintenance of records.** The records required under subsection 2 must be kept for a period of one year and maintained in order by date of purchase.

[ 2013, c. 398, §1 (NEW) . ]

**4. Availability for inspection.** Upon request by a law enforcement officer or prosecuting attorney, a dealer in secondhand precious metals shall promptly make available for inspection at the dealer's principal place of business the records required under subsection 2.

[ 2013, c. 398, §1 (NEW) . ]

**5. Holding period.** A dealer may not sell or alter any precious metals until the precious metals have remained in the dealer's possession for 15 days after the date of acquisition by the dealer, except that a dealer who determines that the precious metals are not listed in an electronic database designed to catalog stolen property may sell or alter the precious metals 5 business days after the date of acquisition.

[ 2013, c. 398, §1 (NEW) . ]

**6. Municipal permit.** A person may not act as a dealer without a permit issued by the municipal officers of the municipality in which the person intends to maintain a permanent place or places of business. A dealer shall provide the address of the permanent place of business at which the dealer will do business to the municipality and shall notify the municipality if the location changes. The municipal officers may require other reasonable information as to the identity of the persons managing, supervising or conducting the business as necessary in order to fulfill the purposes of this section. The municipal officers may not issue a permit to act as a dealer to a person if they find that issuance of the permit would be detrimental to the public health, safety or welfare. Without a municipal permit, a person may not engage in the business of dealing in secondhand precious metals.

[ 2013, c. 398, §1 (NEW) .]

**7. Exemption.** This section does not apply to an auctioneer licensed under Title 32, chapter 5-B.

[ 2013, c. 398, §1 (NEW) .]

**8. Violations.** A dealer who violates any of the requirements of this section is guilty of a Class E crime except as specified in subsection 2, paragraph E. A court may award restitution pursuant to Title 17-A, section 1325 to any victim, including a dealer, who suffers an economic loss as the result of a violation of this section.

[ 2013, c. 398, §1 (NEW) .]

#### SECTION HISTORY

2013, c. 398, §1 (NEW) .

## Subchapter 8: RECREATIONAL BUSINESS ACTIVITIES

### §3981. LICENSING RECREATIONAL BUSINESS ACTIVITIES

Pursuant to its home rule authority and for the purpose of protecting the safety, health and welfare of the general public, a municipality may establish by ordinance licensing procedures, standards and appropriate fees to cover the costs of administration, regulation and enforcement of recreational business activities including without limitation the activities of bowling alleys, shooting galleries, pool, bagatelle and billiard rooms, pinball machine arcades, public exhibitions and roller-skating and ice-skating rinks. [ 2013, c. 595, Pt. U, §10 (NEW) .]

#### SECTION HISTORY

2013, c. 595, Pt. U, §10 (NEW) .

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